

**COMMON POLICY DECLARATIONS**



COMPANY NAME: RSUI Indemnity Company (A New Hampshire Stock Co.)

B. MAILING ADDRESS: 945 E. Paces Ferry Rd., #1800, Atlanta, GA 30326

POLICY NO. NHD341149

RENEWAL OF: NHD335235

NAMED INSURED AND MAILING ADDRESS:

PRODUCER:

The State of West Virginia  
 (Name Incomplete - Refer to Manuscript Form)  
 c/o Board of Risk and Insurance Management  
 90 MacCorkle Avenue, SW  
 300 Ghannam Building  
 S. Charleston, WV 25303

**PLACED BY SWETT & CRAWFORD**

POLICY PERIOD: From 07/01/2005 To 07/01/2006 12:01 A.M. Standard Time at your Mailing Address above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

**THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.**

COVERAGE PARTS	PREMIUM	COMM.
<input checked="" type="checkbox"/> Commercial Property	Excluding TRIA \$ 595,000.00	DO NOT WRITE IN TINTED AREA
<input type="checkbox"/> Commercial General Liability	\$	
<input type="checkbox"/> Crime and Fidelity	\$	
<input type="checkbox"/> Commercial Inland Marine	\$	
<input type="checkbox"/> Boiler and Machinery	\$	
<input type="checkbox"/> Commercial Automobile	\$	
<input type="checkbox"/> Farm	\$	
<input type="checkbox"/>	\$	
<input type="checkbox"/>	\$	
<input type="checkbox"/>	\$	
<input type="checkbox"/> Premium is payable in installments:	<b>TOTAL POLICY PREMIUM</b> \$ 654,500.00	
	Premium Excluding TRIA \$ 595,000.00	
	TRIA Premium \$ 59,500.00	

FORMS APPLICABLE TO ALL COVERAGE PARTS: (Show numbers)  
 Manuscript Form (Schedule & Coverage Form), Endt. A, Endt. B  
 RSG 94005 0304, RSG 94030 1003, RSG 94057 0304, RSG 94060 1004  
 RSG 96004 0903, RSG 96014 0504  
 IL 0017 1198, IL 0281 0489

BUSINESS DESCRIPTION: Municipality

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE FORMS(S) AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE CONTRACT OF INSURANCE.

Countersigned 08/11/05  
 Date nt

By: James A. Dijon  
 Authorized Representative

Policy Number: NHD341149  
Insurer: RSUI Indemnity Company  
Named Insured: The State of West Virginia

### NOTICE - DISCLOSURE OF TERRORISM PREMIUM

In accordance with the federal Terrorism Risk Insurance Act of 2002, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under that Act. The portion of your premium attributable to such coverage is shown below.

#### DISCLOSURE OF PREMIUM

The portion of your premium for the policy term attributable to coverage for terrorist acts certified under the Act is  
\$ 59,500.00

#### DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 90% of that portion of the amount of such insured losses that exceeds the applicable insurer retention.

#### Possibility of Additional Or Return Premium

The premium for certified acts of terrorism coverage is calculated based in part on the federal participation in payment of terrorism losses as set forth in the Terrorism Risk Insurance Act of 2002. The federal program established by the Act is scheduled to terminate at the end of 12/31/05 unless extended by the federal government. If the federal program terminates or if the level or terms of federal participation change, the estimated premium shown above may not be appropriate.

If this policy contains a Conditional Exclusion, continuation of coverage for certified acts of terrorism, or termination of such coverage, will be determined upon disposition of the federal program, subject to the terms and conditions of the Conditional Exclusion. If this policy does not contain a Conditional Exclusion, coverage for certified acts of terrorism will continue. In either case, when disposition of the federal program is determined, we will recalculate the premium above and will charge additional premium or refund excess premium, if indicated.

If we notify you of an additional premium charge, the additional premium will be due as specified in such notice.

**State Fraud Statements  
Fraud Statements – Signature Required for New York Only**

**ARKANSAS, LOUISIANA, RHODE ISLAND, WASHINGTON AND WEST VIRGINIA FRAUD STATEMENT**

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**COLORADO FRAUD STATEMENT**

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policy holder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**DISTRICT OF COLUMBIA FRAUD STATEMENT**

**WARNING:** It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment, fines and denial of insurance benefits.

**FLORIDA FRAUD STATEMENT**

Any person who knowingly and with intent to injure, defraud or deceive any insurer, files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

**HAWAII FRAUD STATEMENT**

**Motor Vehicle Insurance:**

For your protection, Hawaii law requires you to be informed that presenting a fraudulent claim for payment of a loss or benefit is a crime punishable by fines or imprisonment or both.

**KENTUCKY FRAUD STATEMENT**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

**MAINE FRAUD STATEMENT**

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or denial of insurance benefits.

**MINNESOTA FRAUD STATEMENT**

A person who submits an application or files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

**NEW JERSEY FRAUD STATEMENT**

Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**NEW MEXICO FRAUD STATEMENT**

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

**OHIO FRAUD STATEMENT**

Any person who, with the intent to defraud or knowing that he or she is facilitating a fraud against an insurer, submits an application or files a claim containing false or deceptive statement is guilty of insurance fraud.

**OKLAHOMA FRAUD STATEMENT**

Any Person who knowingly and with intent to injure, defraud, or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**OREGON FRAUD STATEMENT**

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents materially false information in an application for insurance may be guilty of a crime and may be subject to fines and confinement in prison.

**PENNSYLVANIA FRAUD STATEMENT**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

**TENNESSEE AND VIRGINIA FRAUD STATEMENT**

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**SIGNATURE REQUIRED**

**NEW YORK FRAUD STATEMENT**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

\_\_\_\_\_  
Insured/Applicant/Claimant

\_\_\_\_\_  
By (Authorized Representative)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## SCHEDULE

### Item

1. **Title of Insured:**
- A. The State of West Virginia;
  - B. West Virginia Parkways, Economic Development and Tourism Authority;
  - C. Each West Virginia County Board of Education, each West Virginia political subdivision or non-profit or for profit non-governmental organization covered by memorandums of insurance issued by Board of Risk and Insurance Management and declared to this Company on statement of values

“The State of West Virginia” means:

“The legislative, judicial and executive branches of the State of West Virginia, including all of its boards, commissions, councils, authorities, institutions, universities, colleges, schools, departments, divisions and agencies; provided, however, the State of West Virginia shall not be considered to include county commissions, municipalities or other political subdivisions of the state regardless of any state aid that may be provided.”

2. **Address of Insured:** c/o Board of Risk and Insurance Management  
90 MacCorkle Avenue, S.W.  
300 Ghannam Building  
S. Charleston, WV 25303
3. **Perils Covered:** All Risks of Direct Physical Loss or Damage, including Flood and Earthquake
4. **Property Covered:** All Real and Personal Property of the Insured, including Property of Others for which the Insured could be liable, Valuable Papers & Records, Accounts Receivable, Fine Arts, Improvements and Betterments, Stock, EDP (including Gross Earnings and Extra Expense), Property in Transit, Registered Mail Shipments, Money & Securities, Vehicles, Watercraft, Mobile Equipment, Property in Course of Construction, Erection, Installation or Assembly, Gross Earnings, Extra Expense, all as more fully described in Primary wording.

**Schedule**  
**The State of West Virginia**  
**Page Two**

5. **Period of Insurance:** July 1, 2005 to July 1, 2006
6. **Annual Premium:** \$ 654,500 (of which \$59,500 represents the Terrorism premium)
7. **Primary Limits:** \$ 25,000,000 Per Occurrence with Separate Annual Aggregates as respects Flood and Earthquake
8. **Identification Details Carried in Primary Layer:** Westchester Fire Insurance Company  
Policy No.: D 3 58 67 82 A 003  
100% of the Limit
9. **First Excess Limits:** \$175,000,000 Per Occurrence not to exceed  
\$100,000,000 In any one policy year separately as respects Flood and Earthquake, except  
\$175,000,000 In any one policy year separately as respects Flood and Earthquake for "Turnpike Bridges"
10. **Identification Details Carried in First Excess Layer:** RSUI Indemnity Company  
Policy No.: NHD341149  
100% of the Limit
11. **Notification of Claims to:** Swett & Crawford  
200 Northcreek, Suite 800  
3715 Northside Parkway, N.W.  
Atlanta, GA 30327

ATTACHED TO AND FORMING A PART OF POLICY NO.: NHD341149

IN THE NAME OF: State of West Virginia

1. **INSURING CLAUSE:**

Subject to the limitations, terms and conditions contained in this Policy or added hereto, the Company agrees to indemnify the Insured named in the Schedule herein in respect of loss or damage to the property described in the Schedule while located or contained as described in the Schedule occurring during the period stated in the Schedule and caused by any of such perils as are set forth in Item 3 of the Schedule and which are also covered by and defined in the policies specified in the Schedule and issued by the "Primary Insurers" stated therein.

2. **LIMIT:**

Provided always that liability attaches to the Company only after the Primary Insurers have paid or have admitted liability for the full amount of their respective ultimate net loss liability as set forth in Item 7 of the Schedule and designated "Primary Limits", and then the limits of the Company's liability shall be their proportion of total Limit of Liability set forth in Item 9 under the designation "First Excess Limits" and the Company shall be liable to pay the ultimate net loss up to the full amount of such "First Excess Limits."

3. **DEFINITIONS:**

- a. LOSS: The word "loss" shall mean a loss or series of losses arising out of one event or occurrence.
- b. ULTIMATE NET LOSS: The words "ultimate net loss" shall mean the loss sustained by the Insured as a result of the happening of the risks covered by this Policy after making deductions for all recoveries and other valid and collectible insurances (other than recoveries under the Policies of the Primary Insurers).

4. **APPLICATION OF RECOVERIES:**

All recoveries or payments recovered or received subsequent to a loss settlement under this Policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the Insured and the Company, provided always that nothing in this Policy shall be construed to mean that losses under this Policy are not recoverable until the Insured's ultimate net loss has been finally ascertained.

5. **MAINTENANCE OF PRIMARY INSURANCE:**

In respect of the perils hereby insured against, this Policy is subject to the same warranties, terms and conditions (except as regards the premium, the amount and limits of liability, and the renewal agreement, if any, and except as otherwise provided herein) as are contained in or as may be added to the Policies of the Primary Insurers prior to the happening of a loss for which claim is made hereunder, and should any alteration be made in the premium for the Policies of the Primary Insurers, then the premium hereon shall be adjusted accordingly.

It is a condition of this Policy that the Policies of the Primary Insurers shall be maintained in full effect during the currency of this Policy.

6. **NOTIFICATION OF CLAIMS:**

The Insured, upon knowledge of any occurrence likely to give rise to a claim hereunder, shall give immediate written advice thereof to the person(s) or firm named for the purpose in the Schedule.

**CANCELLATION CLAUSE**

NOTWITHSTANDING anything contained in this Insurance to the contrary, this Insurance may be cancelled by the Insured at any time by written notice or by surrender of this contract of insurance. This Insurance may also be cancelled by or on behalf of the Underwriters by delivering to the Insured, or by mailing to the Insured by registered, certified or other first class mail, at the Insured's address as shown in this Insurance, written notice stating when, not less than 120 days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice, and this Insurance shall terminate at the date and hour specified in such notice. However, in event of nonpayment of premium, only ten days prior written notice shall be given.

If this Insurance shall be cancelled by the Insured, the Underwriters shall retain the customary short rate proportion of the premium hereon, except that if this Insurance is on an adjustable basis, the Underwriters shall receive the earned premium hereon or the customary short rate proportion of any minimum premium stipulated herein, whichever is the greater.

If this Insurance shall be cancelled by or on behalf of the Underwriters, the Underwriters shall retain the pro rata proportion of the premium hereon, except that if this Insurance is on an adjustable basis, the Underwriters shall receive the earned premium hereon or the pro rata proportion of any minimum premium stipulated herein, whichever is the greater.

Payment or tender of any unearned premium by the Underwriters shall not be a condition precedent to the effectiveness of Cancellation, but such payment shall be made as soon as practicable.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

## ENDORSEMENT NUMBER A

### DROP DOWN PROVISION

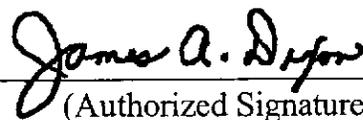
It is also understood and agreed that this contract will become excess of a reduced underlying flood or earthquake limit if that underlying flood or earthquake limit is reduced due to the application of the aggregate annual flood or earthquake limit provision in the underlying insurance coverage. It is further understood that the above "drop down provision" will be subject to a per occurrence deductible as set forth in primary policy.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

ATTACHED TO AND MADE PART OF POLICY NO. NHD341149

OF THE RSUI Indemnity Company

ISSUED TO State of West Virginia

  
(Authorized Signature)



*This Endorsement Changes The Policy. Please Read It Carefully.*

## **CERTIFICATES OF INSURANCE**

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This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

Holders of Certificates of Insurance issued against this policy that are shown as Additional Insureds, Mortgagees, or Loss Payees are added to this policy as interest may appear as respects the property listed on the certificate.

*This Endorsement Changes The Policy. Please Read It Carefully.*

## **EXCLUSION AND LIMITED ADDITIONAL COVERAGE ELECTRONIC DATA**

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This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

It is agreed that, except as provided in Additional Coverages, below, this policy does not cover Electronic Data.

Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This Paragraph does not apply to your "stock" of prepackaged software.

### **Additional Coverages**

Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore electronic data which has been destroyed or corrupted. To the extent that electronic data is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the electronic data was stored, with blank media of substantially identical type.

This additional coverage applies only if caused by any of the following causes of loss and only in the event that the applicable cause of loss is not otherwise excluded by this policy:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage; earthquake; flood.

- a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
  - (1) The cost of filling sinkholes; or
  - (2) Sinking or collapse of land into man-made underground cavities.
- b. Falling objects does not include loss or damage to property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.

This additional coverage also applies to loss caused by a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.

The most we will pay under this Additional Coverage – Electronic Data is \$2,500 for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

*This Endorsement Changes The Policy. Please Read It Carefully.*

## **CANCELLATION OR EXPIRATION OF A PRIMARY POLICY**

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This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

It is agreed that in the event that the primary policy is canceled or expires during the term of this policy, this policy shall respond in the same manner as if the primary policy were not canceled or expired.

*This Endorsement Changes The Policy. Please Read It Carefully.*

## **SCHEDULED LIMIT OF LIABILITY**

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This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

It is understood and agreed that the following special terms and conditions apply to this policy:

1. In the event of loss hereunder, liability of the Company shall be limited to the least of the following in any one "occurrence":
  - a. The actual adjusted amount of the loss, less applicable deductibles and primary and underlying excess limits;
  - b. 100% of the individually stated value for each scheduled item of property insured at the location which had the loss as shown on the latest Statement of Values on file with this Company, less applicable deductibles and primary and underlying excess limits. If no value is shown for a scheduled item then there is no coverage for that item; or
  - c. The Limit of Liability as shown on the Declarations page of this policy or as endorsed to this policy.
2. Coverage under this policy is provided only at the locations listed on the latest Statement of Values on file with this Company or as endorsed on to this policy.
3. The premium for this policy is based upon the Statement of Values on file with this Company or attached to this policy.

The term "occurrence", where used in this policy, shall mean any one loss, disaster, casualty or series of losses, disasters, or casualties arising from one event.

When the term "occurrence" applies to a loss or series of losses from the perils of tornado, cyclone, hurricane, windstorm, hail, flood, earthquake, volcanic eruption, riot, riot attending a strike, civil commotion and vandalism and malicious mischief, one event shall be construed to be all losses arising during a continuous period of 72 hours. When filing a proof of loss the insured may elect the moment at which the 72 hour period shall be deemed to have commenced, which shall not be earlier than the first loss to occur at any covered location.

*This Endorsement Changes The Policy. Please Read It Carefully.*

## **EXCLUSION AND LIMITED ADDITIONAL COVERAGE FOR FUNGUS**

This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

A. The following Exclusion is added:

#### **EXCLUSION – "Fungus", Wet Rot, Dry Rot And Bacteria**

We will not pay for loss or damage caused directly or indirectly by the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But if "fungus", wet or dry rot or bacteria results in a "covered cause of loss", we will pay for the loss or damage caused by that "covered cause of loss".

This exclusion does not apply:

1. When "fungus", wet or dry rot or bacteria results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

B. The following Additional Coverage is added:

#### **ADDITIONAL COVERAGE - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria**

1. This limited coverage applies only when the "fungus", wet or dry rot or bacteria is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence, and only if any loss resulting from the following is reported to us within 60 days of the occurrence.
  - a. A "covered cause of loss" other than fire or lightning; or
  - b. Flood, if the Flood Coverage Endorsement applies to the affected premises.
2. Under conditions described in item B.1. above, we will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
  - a. Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
  - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
  - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.
3. The coverage provided under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$ 15,000 even if the "fungus", wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

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If there is covered loss or damage to Covered Property, not caused by "fungus", wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

C. The following Definition is added:

"Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

*This Endorsement Changes The Policy. Please Read It Carefully.*

## **EXCLUSION OF PATHOGENIC OR POISONOUS BIOLOGICAL OR CHEMICAL MATERIALS**

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This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

The following exclusion is added:

We will not pay for loss or damage caused directly or indirectly by the discharge, dispersal, seepage, migration, release, escape or application of any pathogenic or poisonous biological or chemical materials. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

However, if both A. and B. below apply, we will pay up to a maximum of \$10,000 for any and all claims for such loss or damage arising out of events occurring within the term of this policy:

- A. The pathogenic or poisonous biological or chemical materials are normally kept at or brought onto your premises, with your consent, for use in your business operations at your premises; and
- B. The discharge, dispersal, seepage, migration, release, escape or application of the pathogenic or poisonous biological or chemical materials is accidental and is not the result of a willful or malicious act against any persons, organizations, or property of any nature.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WEST VIRGINIA CHANGES – CANCELLATION**

The provision in the Cancellation Condition which indicates that proof of mailing will be sufficient proof of notice is deleted.

*This Endorsement Changes The Policy. Please Read It Carefully*

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In consideration of the premium charged, it is hereby agreed the Exclusion of Pathogenic or Poisonous Biological or Chemical Materials – RSG 96014 0504 attached to this policy is deleted in its entirety.

All other terms, conditions and warranties remaining unchanged.

This endorsement effective 07/01/2005  
forms part of Policy Number NHD341149  
issued to The State of West Virginia  
Authorized Representative

Endorsement No.: 1  
Date Processed : 08/16/2005

*James A. Digo*

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